



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 4
ATLANTA FEDERAL CENTER
61 FORSYTH STREET
ATLANTA, GEORGIA 30303-8960

JUL 05 2018

CERTIFIED MAIL 7017145000079130858

RETURN RECEIPT REQUESTED

Bonefish Holdings, LLC
c/o John R. Herin, Jr.
Gray Robinson, Attorneys at Law
401 East Las Olas Blvd., Suite 1000
Fort Lauderdale, Florida 33301

RE: Information Request Letter for Bonefish Holdings, LLC, Monroe County, Florida

Dear Mr. Herin:

The U.S. Environmental Protection Agency, Region 4 (EPA), has learned that a discharge of dredged and/or fill material has occurred in waters of the United States in wetlands adjacent to the Atlantic Ocean without a U.S. Army Corps of Engineers Clean Water Act (CWA) Section 404, 33 U.S.C. § 1344, permit, on property owned by your client(s), Bonefish Holdings, LLC, AV Investors, LLC, and/or Dr. Albert Vorstman (collectively, Respondents). The parcels, totaling approximately 7.88-acres, are situated between 82931 and 83003 Old State Highway 4A, in Monroe County, Florida, near 24.929749° north latitude and 80.619976° west longitude (see Exhibits A and B of the enclosed Information Request). According to our investigation, the unpermitted discharge of dredged and/or fill material occurred after September 12, 2017, in association with mechanized land clearing.

The EPA is continuing to investigate Respondents' compliance with the CWA. Therefore, pursuant to Section 308 of the CWA, 33 U.S.C. § 1318, the EPA hereby requests that Respondents provide the information set forth in Enclosure A within thirty (30) days of receipt of this letter. The response should be sent to:

Mr. Christopher Parker
U.S. Environmental Protection Agency, Region 4
Atlanta Federal Center
Marine Regulatory and Wetlands Enforcement Section
61 Forsyth Street S.W.
Atlanta, Georgia 30303

Failure to provide a full and complete response to this information request may result in an EPA enforcement action pursuant to federal law, including, but not limited to 33 U.S.C. § 1319 and 18 U.S.C. § 1001.

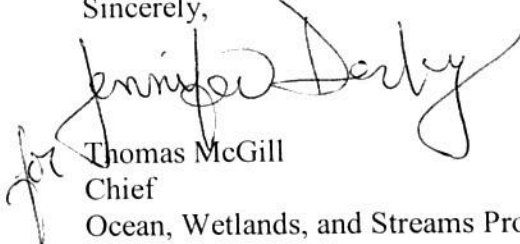
If Respondents believe that any of the requested information is Confidential Business Information (CBI), they may assert a business confidentiality claim with respect to such information in the manner described by 40 C.F.R. § 2.203(b). Information covered by such a claim will be disclosed by the EPA only to the extent, and by means of the procedures, set forth in Subpart B, Part 2, 40 C.F.R. § 2.201 *et*

seq. Please separate documents that Respondents wish to protect as CBI from non-confidential documents. Sending documents claimed as CBI electronically to the EPA is done at the risk of the claimant, as the EPA does not have the capability to encrypt electronic information. The EPA requests that any such information be physically mailed to the address provided. If Respondents do not assert a CBI claim, the EPA may make information submitted under this request available to the public without further notice to Respondents. Additional information regarding the EPA's requirements for confidential treatment of information can be found in Subpart B, Part 2, 40 C.F.R. § 2.201 *et seq.*

We have also enclosed a document that provides information for small businesses that may be subject to an EPA enforcement action. This document is for you and your clients' use to assist in understanding the compliance assistance resources and tools available. Any decision to seek compliance assistance at this time, however, does not relieve Respondents of their obligation to the EPA, nor does it create any new rights or defenses and will not affect the EPA's decision to pursue enforcement action.

Please contact Mr. Nathan Stopper at (404) 562-9581 if you have any questions regarding the foregoing.

Sincerely,



for Thomas McGill
Chief
Ocean, Wetlands, and Streams Protection Branch

Enclosures

cc: Mr. Robert Halbert, Chief, U.S. Army Corps of Engineers, Enforcement Section
Mr. John Truitt, Florida Department of Environmental Protection
Mr. Roget V. Bryan, Esq., Village of Islamorada
Mr. Wayne P. Blythe, South Florida Water Management District

ENCLOSURE A – EPA SECTION 308 INFORMATION REQUEST

Instructions

1. Please provide a separate narrative response to each and every Question and subpart of a Question set forth in this information request.
2. Precede each answer with the number of the Question to which it corresponds.
3. For each document produced in response to this Information Request, indicate on the document, or in some other reasonable manner, the number of the Question to which it responds.
4. You must provide the information requested even though you may contend that it includes confidential business information (CBI) such as trade secrets. You may, if you desire, assert a CBI claim covering part or all of the information requested, under 40 C.F.R. § 2.203(b), by attaching to such information at the time it is submitted, a cover sheet with the words “trade secret,” “proprietary,” or “company confidential” stamped or typed on it. Information covered by such claim will be disclosed by the EPA only to the extent, and only by means, of the procedures set forth in the regulation set forth above. **If you do not assert a confidentiality claim, when you submit your information to the EPA, the EPA may disclose the information to the public without further notice to you.** You should read the above cited regulations carefully before asserting a CBI claim, since certain categories of information are not properly the subject of such a claim.

Definitions

The following definitions shall apply to the following words as they appear in the Questions below:

1. All terms not defined herein shall have their ordinary meanings, unless such terms are defined in the Clean Water Act or its implementing regulations, in which case the statutory or regulatory definitions shall control.
2. Words in the masculine may be construed in the feminine if appropriate, and vice versa, and words in the singular may be construed in the plural if appropriate, and vice versa, in the context of a particular question or questions.
3. The terms “and” and “or” shall be construed either disjunctively or conjunctively as necessary to bring within the scope of this Information Request any information which might otherwise be construed outside its scope.
4. The term “identify” means, with respect to a natural person, to set forth the person’s name, present or last known business address and business telephone number, present or last known home address and home telephone number, and present or last known job title, position or business.

5. The term “identify” means, with respect to a document, to provide its customary business description; its date; its number, if any (invoice or purchase order number); the identity of the author, addressee, and/or recipient; and substance of the subject matter.
6. The term “identify” means, with respect to a corporation, partnership, business trust or other association or business entity (including a sole proprietorship), to set forth its full name, address, legal form (e.g., corporation, partnership, etc.), organization, if any, and a brief description of its business.
7. The term “Discharge Area” means the wetlands that have been impacted either through filling and excavating and/or mechanical land clearing with side cast of dredged and/or fill material. More specifically, the Discharge Area is in wetlands situated on the Site, in Monroe County, Florida, at or near 24.929749° north latitude and 80.619976° west longitude.
8. The term “Site” means the parcel or parcels of land on which the Discharge Area is located and is contained within Section 28, Township 63S, Range 37E, Upper Matecumbe Key, Monroe County, Florida, between 82931 and 83003 Old State Highway 4A. The Site is indicated on the enclosed Exhibits A and B.
9. The term “Work” means any land clearing activities, ditching, dredging, side casting, road construction, stream crossing construction, mechanical land clearing, piping of streams, timber harvesting, excavating, mining or filling activities that have occurred in wetlands or streams at the Site since you owned, controlled, or engaged in any such activities at the Site.
10. The term “you” and/or “Respondents” shall mean Dr. Albert Vorstman, Bonefish Holdings, LLC, AV Investors, LLC, and/or any company, entity, corporation, or individual that directed work at the Site.

Questions

Please provide the EPA with the following information or documents pertaining to the Discharge Area identified in Exhibits A and B:

1. Copies of any deeds, leases, easements, mineral rights or other documents revealing any and all ownership interests in the Site.
2. The name and address of any contractor, subcontractor, consultant, agent, or individual who directed or participated in the Work at the Site.
3. The types of all equipment used to carry out the Work, and the names and addresses of the person and/or companies that own and/or operate the equipment.

4. The date upon which the Work was commenced and the date upon which the Work was completed or will be completed.
5. A description of all the Work at the Site performed by Respondent, or on behalf of the Respondent by its contractor(s), subcontractor(s), consultant(s), agent(s), or employee(s).
6. A description of any and all of the Work performed at the Site by any entity other than the Respondent, its contractor(s), subcontractor(s), consultant(s), agent(s), or employee(s).
7. A description of all planned development, land-clearing and/or dredging/filling activities of which the Work was a part, including, but not limited to, all maps, drawings, engineering plans, and permit applications.
8. A description of the physical condition of the overall Site before Hurricane Irma made landfall on September 10, 2017, including, but not limited to, all wetlands, biology, soil, vegetation, and hydrology.
9. A description of the physical condition of the Discharge Area before Hurricane Irma made landfall on September 10, 2017, including, but not limited to, all wetlands, biology, soil, vegetation, and hydrology.
10. A description of the physical condition of the Site in the period after Hurricane Irma made landfall and before the commencement of the Work, including, but not limited to, all wetlands, biology, soil, vegetation, and hydrology.
11. A description of the physical condition of the Discharge Area in the period after Hurricane Irma made landfall and before the commencement of the Work, including, but not limited to, all wetlands, biology, soil, vegetation, and hydrology.
12. A description of all emergency conditions at the Site caused by Hurricane Irma that necessitated the Work.
13. A description of all emergency conditions in the Discharge Area caused by Hurricane Irma that necessitated the Work.
14. A description of why you believe the Work was authorized by Florida Department of Environmental Protection Emergency Order OGC No. 17-0989.
15. State whether the Work entailed and/or resulted in the filling of any wetlands or other surface waters, and/or in dredging that created or expanded such waters.
16. Copies of any environmental assessments of the Site, including jurisdictional determinations and environmental assessments of soils, vegetation, or hydrology at the Site.

17. Copies of any state or local permits or authorizations that you received for the Work on the Site.
18. Please provide all federal permits you received to conduct the Work at the Site. If you did not obtain federal permits for the Work at the Site, please explain why.
19. Plans for any additional filling, excavating, or other land disturbing activities at the Site.
20. Copies of any written communications with federal, state or local, agencies regarding the Work, and copies of any notes regarding any written or verbal communications with federal, state, or local agencies regarding the Work.
21. The names and a description of the assistance provided by any and all contractors, consultants, or other entities that assisted with securing any local, state, or federal permits or easements associated with the Site.
22. Copies of any and all contracts, work orders, or other communications covering the Work at the Site. Describe any verbal instructions or other verbal communications to any contractor(s), subcontractor(s), consultant(s), agent(s), or employee(s) regarding the Work to be done at the Site.
23. Please identify the individual or individuals who prepared the responses to this Information Request.

At the end of your response to this information request, please include the following certification:

“I certify that I have personally reviewed the information contained in this response to the information request and the response is truthful, accurate and complete. I further certify that the response to the information request contains all documents responsive to the request. I am aware that there are significant penalties for submitting false information including the possibility of further enforcement under the CWA.”

Name
Title



Copyright: © 2013 National Geographic Society



EXHIBIT A
BONEFISH HOLDINGS, LLC
MONROE COUNTY, FLORIDA

0 0.25 0.5 1 Miles

Legend

SITE



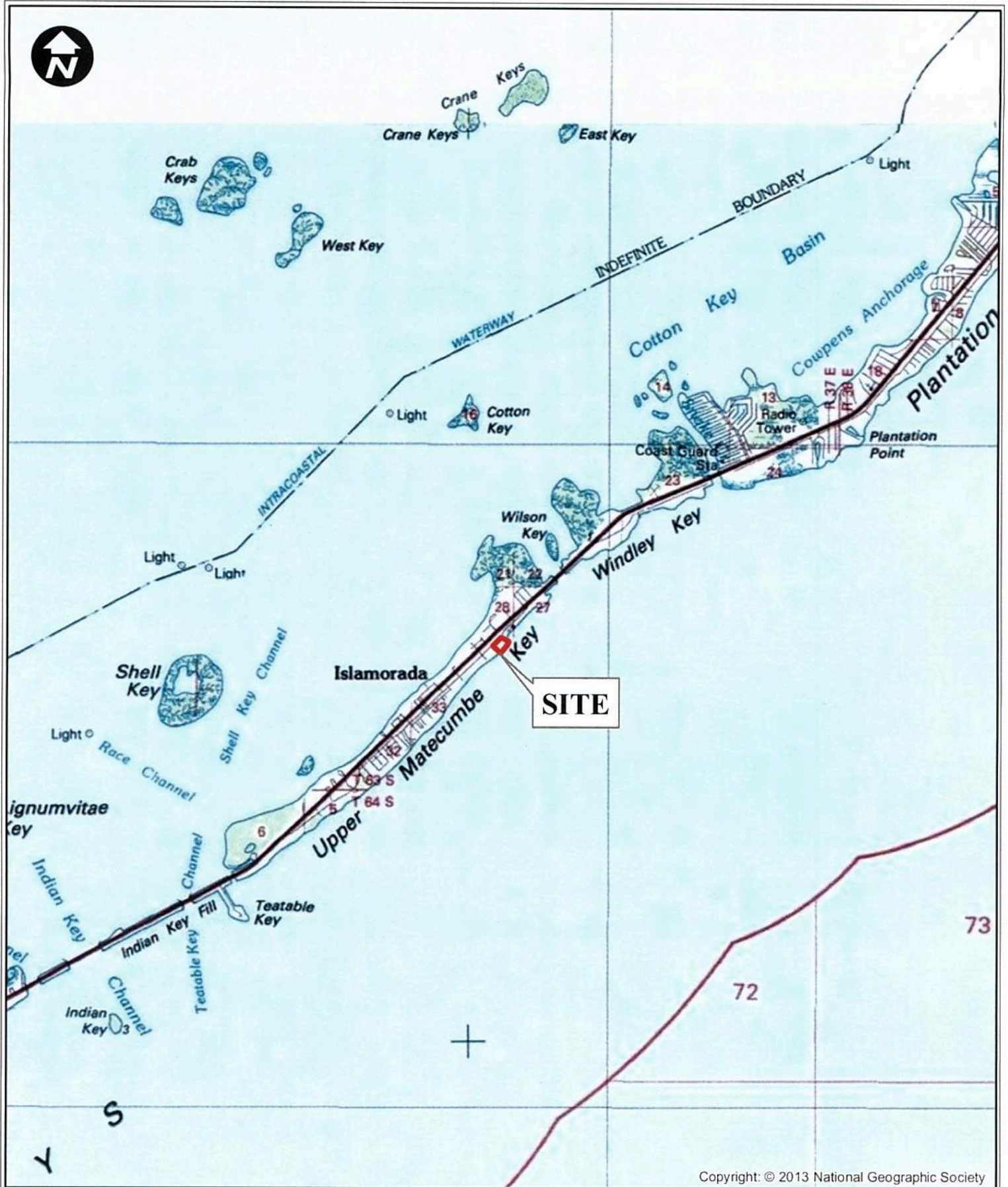


EXHIBIT B
BONEFISH HOLDINGS, LLC
MONROE COUNTY, FLORIDA

0 0.75 1.5 3
Miles

Legend

SITE

